

## **EXHIBIT D**

# Knobbe Martens

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July 31, 2017  
VIA FEDERAL EXPRESS

Adam Strum  
Chief Executive Officer  
The Wine Enthusiast, Inc.  
200 Summit Lake Road  
Valhalla, New York 10595

Re: Vinotemp's Intellectual Property  
VINO.034IS

Dear Mr. Strum:

We represent Vinotemp International Corp. ("Vinotemp") in connection with certain intellectual property matters. As you know, Vinotemp is a leader in the wine storage industry and a pioneer in the design of wine cabinets, racking, and cooling systems. Vinotemp has invested considerable resources into the development of its proprietary designs. In order to protect this investment, Vinotemp has obtained numerous patents, including U.S. Design Patent No. D711,936 (the "D936 Patent").

In addition, Vinotemp protects its distinctive trade dress in its popular designs, including the distinctive design of its wine refrigerators that include wine racks having black lips that can be seen through a glass door ("Vinotemp Trade Dress"). An example of the Vinotemp Trade Dress is shown below.



*Vinotemp Trade Dress*

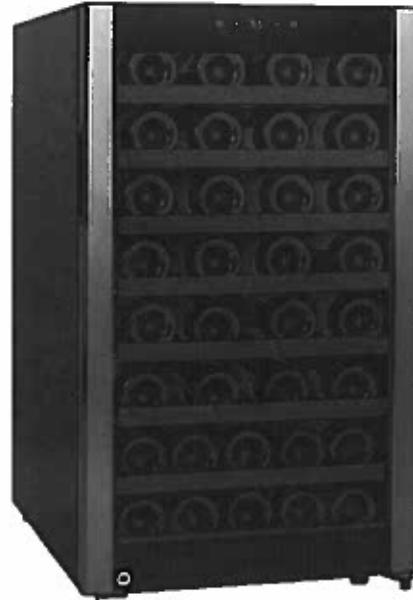
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As a result of Vinotemp's extensive efforts to market, advertise, and sell products bearing the Vinotemp Trade Dress, the Vinotemp Trade Dress has become extremely valuable to Vinotemp as an identifier of the company, its products, and the substantial goodwill Vinotemp has earned in the market. The Vinotemp Trade Dress has become synonymous in the consumer's mind with Vinotemp.

It has come to our attention that Wine Enthusiast is selling wine refrigerators that infringe not only the D936 Patent, but also the Vinotemp Trade Dress.

Under 35 U.S.C. § 271, any entity that, without permission, makes, uses, sells, offers to sell, or imports a product covered by any claim of a Vinotemp patent infringes on Vinotemp's patent rights. Vinotemp takes infringement of its patent rights very seriously. We have determined that the design of Wine Enthusiast's Evolution Series Wine Refrigerators, an example of which is shown below, infringes the D936 Patent.



*Wine Enthusiast's Evolution Series Wine Refrigerator*

Wine Enthusiast's advertising, promotion, sale, and/or offer for sale of the Evolution Series Wine Refrigerators are confusingly similar to the Vinotemp Trade Dress and, thus, also infringe Vinotemp's trade dress rights. Wine Enthusiast's use of Vinotemp's distinctive trade dress without Vinotemp's authorization is likely to confuse consumers to mistakenly believe there is an affiliation between Vinotemp and Wine Enthusiast, or that Vinotemp sponsors, endorses, or approves of Wine Enthusiast's products, when it does not.

We demand that you immediately cease any further infringement of Vinotemp's intellectual property rights and pay to Vinotemp any and all damages in accordance with 35 U.S.C. §§ 284 and 289 and 15 U.S.C. § 1117 that are sufficient to compensate Vinotemp for its losses. In order to determine the

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amount of these damages, we further demand that you account to us for all sales of the infringing products.

We request that you provide this information and confirm by August 11, 2017, that you will fully comply with Vinotemp's demand to cease infringing. Otherwise, we will have no choice but to file a lawsuit in federal court. Any further sales of the infringing products will constitute additional evidence of willful infringement, which may entitle Vinotemp to recover enhanced monetary damages, including treble damages and attorneys' fees.

This letter is provided to you without waiver of any of Vinotemp's rights or remedies, all of which are expressly reserved.

Very truly yours,



Ali S. Razai

Enclosure:  
U.S. Design Patent No. D711,936

26412735



US00D711936S

(12) **United States Design Patent**  
**Hynes**

(10) Patent No.: **US D711,936 S**  
(45) Date of Patent: **\*\* Aug. 26, 2014**

(54) **BLACK WINE RACK FACE**

D529,630 S \* 10 2006 Zarb D25 119  
7,165,371 B2 \* 1 2007 Yoyasu 52 716 4  
D550,256 S \* 9 2007 Lei et al. D15 81  
D551,262 S \* 9 2007 Becke D15 89  
D566,490 S \* 4 2008 Frentzel  
D625,941 S \* 10 2010 Holzer D6 510  
D627,374 S \* 11 2010 Yang D15 81  
D630,230 S \* 1 2011 Yang D15 81  
D630,231 S \* 1 2011 Yang et al. D15 81  
D638,237 S \* 5 2011 Holzer D6 510  
D660,327 S \* 5 2012 Dobberstein et al. D15 89  
D660,361 S \* 5 2012 Kotin et al. D25 119  
D660,984 S \* 5 2012 Kotin et al. D25 119  
D694,290 S 11 2013 Holtmann et al.  
D700,221 S \* 2 2014 Ringemann et al. D15 89  
2005 0258118 A1 \* 11 2005 Lee et al. 211 134  
2007 0228909 A1 \* 10 2007 Hwang et al. 312 408

(\*\*) Term: **14 Years**(21) Appl. No.: **29/445,271**(22) Filed: **Feb. 8, 2013**(51) LOC (10) CL ..... **15-07**

(52) U.S. CL.

USPC ..... **D15/89**(58) **Field of Classification Search**

USPC ..... D15/79 89; D25/119, 52/716.1, 716.5,  
52/716.8, 717.01; D3/304, 313, 315;  
D7/550.1, 552.1, 553.1 553.4, 555,  
D7/549, 701-708, 600.1-600.4, 510, 511,  
D6/406.1, 406.3, 336, 510;  
D19/77 92, 99 100; 296/37.1;  
220/23.83, 500, 507, 528-529, 592.01,  
220/592.02; 211/126 1

See application file for complete search history.

(56) **References Cited**

## U.S. PATENT DOCUMENTS

D238,536 S	1 1976	Scherzer	
D284,630 S *	7 1986	Ferdinand	D6 511
D382,735 S *	8 1997	Zapf	D6 492
D415,482 S *	10 1999	Jolson	D14 447
D475,374 S *	6 2003	Segers	D15 89
D478,601 S *	8 2003	Becke	D15 81
D511,013 S *	10 2005	Bullock, Jr	D25 119
D512,081 S *	11 2005	Chang	D15 81
D519,133 S *	4 2006	Chang	D15 81
D524,830 S *	7 2006	Lee et al.	D15 81

\* cited by examiner

Primary Examiner **Mitchell Siegel**(74) Attorney, Agent, or Firm — Kleinberg & Lerner, LLP;  
Marvin H. Kleinberg; Marshall A. Lerner(57) **CLAIM**

The ornamental design for a black wine rack face, as shown and described.

## DESCRIPTION

FIG. 1 is a top perspective view of a black wine rack face within a wine cabinet showing my new design.

FIG. 2 is a top perspective view of a black wine rack face standing alone showing my new design.

FIG. 3 is a front view thereof; FIG. 3 is a top view of the black wine rack face of FIG. 1;

FIG. 4 is a rear view of the black wine rack face of FIG. 1;

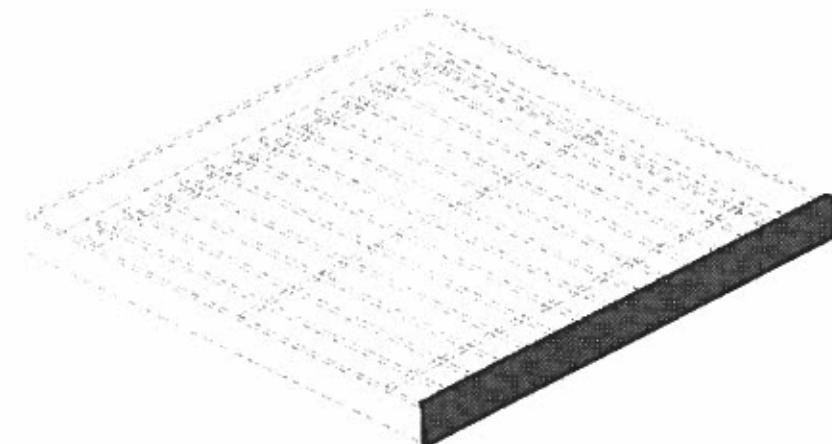
FIG. 5 is a left side view thereof, the right side being a mirror image thereof;

FIG. 6 is a top plan view thereof; and,

FIG. 7 is a bottom plan view thereof.

Elements shown in dashed, dotted or broken lines form no part of the design.

1 Claim, 3 Drawing Sheets

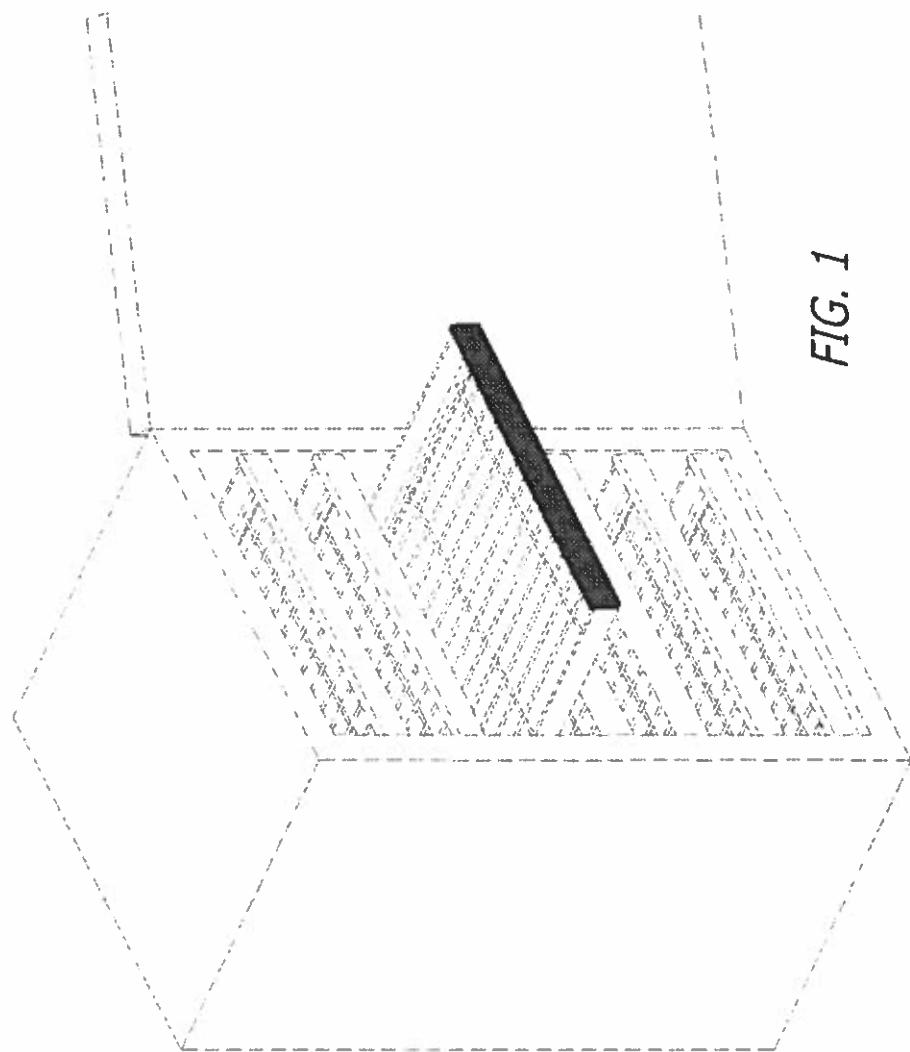


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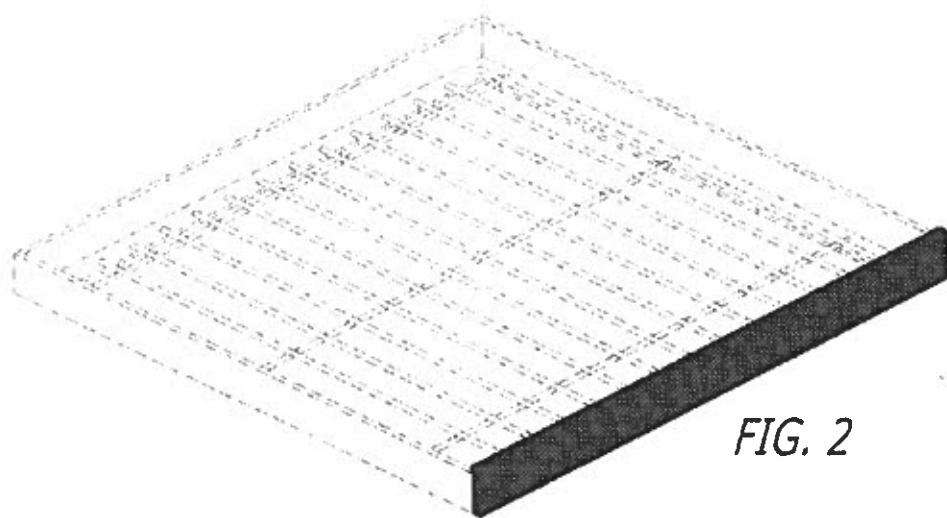
*FIG. 1*

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*FIG. 2*



*FIG. 3*



*FIG. 4*



*FIG. 5*

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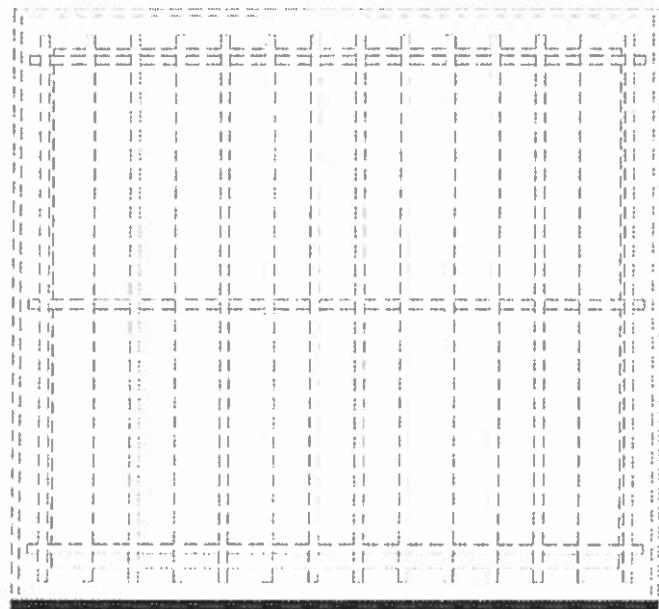


FIG. 6

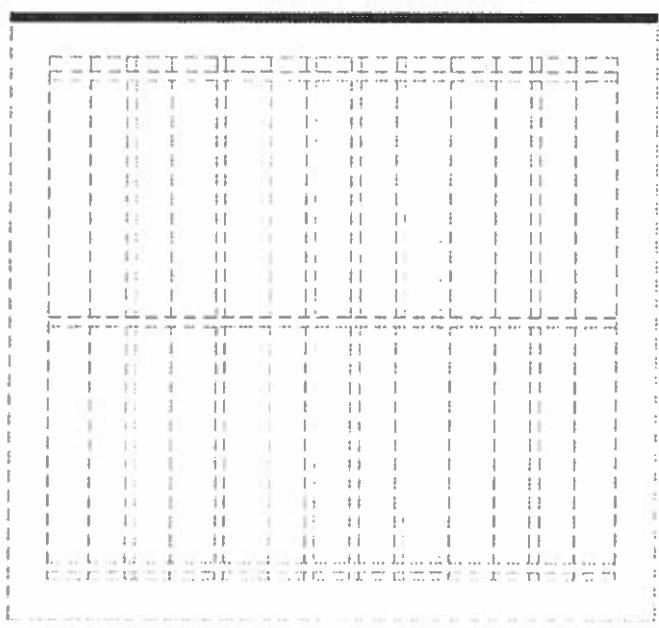


FIG. 7